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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,204	01/14/2002	Alan J. Dextradeur	022719-0027	5062

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EXAMINER

DEAK, LESLIE R

ART UNIT	PAPER NUMBER
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3762

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/047,204

Applicant(s)

DEXTRADEUR ET AL

Examiner

Leslie R. Deak

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2.3.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 6, 8, 15-17, 20-22 rejected under 35 U.S.C. 102(b) as being anticipated by US 4,925,452 to Melinyshyn et al. Melinyshyn discloses a drainage catheter with a drainage conduit 36 and a manifold 34 that holds multiple drainage conduits, A and B, each with their own lumen. The manifold connects the secondary catheters to the main catheter, and the secondary catheters are supported by a membrane that supports the multiple conduits and may space them apart from one another to form a center space between the two conduits (see column 2, FIGS 2-4).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over by US 4,925,452 to Melinyshyn et al. Melinyshyn fails to disclose that the primary and secondary catheters are formed in an integral unit and that the support is formed of a

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bioabsorbable material. It would have been obvious to one of ordinary skill in the art at the time of invention to form the device in an integral unit, since it has been held that forming in once piece an article that has formerly been formed in two pieces and put together involves only routine skill in the art. See MPEP 2144.04. Furthermore, IT would have been obvious to one having ordinary skill in the art at the time the invention was made to make the support out of a bioabsorbable material since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. See MPEP 2144.07.

5. Claims 2, 5, 12-14, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over by US 4,925,452 to Melinyshyn et al. in view of US 4,432,853 to Banks. Melinyshyn discloses the device as claimed with the exception of the diameter of the catheter and secondary catheters and the arrangement of the secondary catheters. Banks discloses and illustrates a drainage catheter with the option of a valve with multiple perforated microtubules within. The diameter of the microtubules is approximately the same as the main catheter and the microtubules may be sealed at the distal end (see FIG 1, column 3). Banks further discloses that the configuration of the microtubules may be adjusted, and suggests a twisted position (see column 4, lines 55-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to adjust the diameter of the secondary tubes, add drainage holes on the side of the tubes, add a valve, and twist the tubes in order to improve drainage flow and prevent clogging of the drainage catheters, as taught by Banks.

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6. Claims 9-11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,925,452 to Melinyshyn et al. in view of US 4,432,853 to Banks in view of US 4,406,656 to Hattler et al. Melinyshyn and Banks disclose the valved catheter as claimed with the exception of the location of the valve and a stylet. Rearrangement of the parts of a device disclosed in the prior art is within one of ordinary skill in the art. See MPEP 2144.04. Hattler discloses a flow catheter with a center lumen 800 that allows a guidewire or stylet to be inserted therethrough to guide the catheter into position (see FIGS 8, 11). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to add a guidewire or stylet to the multilumen catheter disclosed by Melinyshyn and Banks in order to guide the catheter into position, as taught by Hattler.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

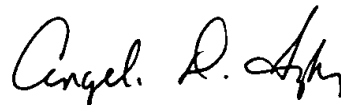
- a. US 3,144,868 Jascalevich
 - i. Multilumen catheter
- b. US 4,072,153 Swartz
 - ii. Multilumen perforated catheter
 - iii.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie R. Deak whose telephone number is 703-305-0200. The examiner can normally be reached on M-F 7:30-5:00, every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 703-308-5181. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lrd
20 May 2004



ANGELA D. SYKES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700